

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Parts 1910, 1915, and 1926

[Docket No. H-049]

RIN 1218-0099

#### Respiratory Protection

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Reopening the record for comments on a report by M. Nicas.

**SUMMARY:** OSHA is reopening the record for the Respiratory Protection standard for the purpose of receiving public comment on the Nicas Report. Several specific areas for comment have been identified.

**DATES:** Written comments must be postmarked on or before January 8, 1996.

**ADDRESSES:** Comments must be submitted in quadruplicate or 1 original (hardcopy) and 1 disk (5¼ or 3½ inch) in WordPerfect 5.0, 5.1, 6.0, 6.1, or ASCII to: Docket Office, Docket H-049, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone: (202) 219-7894. Any information not contained on disk (e.g., studies, articles) must be submitted in quadruplicate. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219-5046, provided that the original and 3 copies are sent to the Docket Office thereafter.

**FOR FURTHER INFORMATION CONTACT:** Ms. Anne C. Cyr, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 219-8148. A copy of the referenced report is available for inspection and copying in the Docket Office and will be mailed to persons

who request a copy by telephoning Mr. John Steelnack at (202) 219-7151. For an electronic copy of the Federal Register notice, contact the Labor News Bulletin Board (202) 219-4748; or OSHA's WebPage on the Internet at <http://www.OSHA.gov/>. For news releases, fact sheets and other short documents, contact OSHA FAX at (900) 555-3400 at \$1.50 per minute.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 15, 1994, OSHA published proposed revisions to 29 CFR 1910.134, the Respiratory Protection standard (59 FR 58884). After announcing an extended comment period on the proposal, OSHA held public hearings on the proposal from June 6-20, 1995 (60 FR 15263). One of the issues discussed extensively during this rulemaking is setting assigned protection factors (APFs) for the various respirator classes. To assist OSHA and the public in evaluating the record on this issue, OSHA contracted with Dr. Mark Nicas to prepare recommendations for evaluating protection factor studies and combining information across studies for use in setting APF values. Dr. Nicas submitted a report titled "The Analysis of Workplace Protection Factor Data and the Derivation of Assigned Protection Factors" (hereafter, the "Nicas Report") which was timely entered as a post-hearing comment into the Respiratory Protection Docket H-049 as Exhibit #156. OSHA is contemplating using the recommendations presented in the Nicas Report as an aid in setting APFs for the final Respiratory Protection standard.

##### Request for Review and Comments

The post-hearing briefing period recently ended on October 20, 1995. OSHA is interested in giving the public an additional opportunity to comment on the Nicas Report. Accordingly, OSHA is reopening the record for the Respiratory Protection standard solely to provide a further opportunity to review the Nicas Report and to submit such comments on the recommendations proposed. The Nicas Report recommends approaches to resolving key science-policy issues related to setting APFs. These issues include deciding which workplace protection factor studies should be

evaluated; accounting for particle size effects, respiratory deposition, and below-detection-limit values; and requiring specific statistical analyses to account for between-wearer variability in respirator performance, within-wearer variability, between-study variations, and parameter uncertainty.

OSHA requests that reviewers comment on the appropriateness and completeness of the issues identified, the statistical methodology recommended, and the solutions offered for the other issues. OSHA also would appreciate any additional opinions or information that reviewers may want to submit regarding statistical methodologies and evaluation criteria for APF studies.

##### Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655).

Signed at Washington, D.C. this 1st day of November, 1995.

Joseph A. Dear,

*Assistant Secretary of Labor.*

[FR Doc. 95-27498 Filed 11-6-95; 8:45 am]

BILLING CODE 4510-26-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[NC79-1-9606; FRL-5326-1]

#### Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to the Raleigh/Durham Carbon Monoxide (CO) Maintenance Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the North Carolina CO Maintenance plan for the Raleigh/Durham area. On October 18, 1995, the State of North Carolina submitted a revision to the Raleigh/Durham CO Maintenance plan, and requested EPA to parallel process the above referenced

revision. This revision changes the projected emission inventory previously published in the Federal Register by EPA on August 2, 1995. Because the revised projections show the oxygenated fuels regulation is not needed for maintenance of the CO standard, North Carolina is in the process of removing regulations that require the use of oxygenated fuels in the Raleigh/Durham area. The State has scheduled a public hearing on November 20, 1995.

**DATES:** Comments on this proposed action must be received in writing by December 7, 1995.

**ADDRESSES:** Written comments on this action should be addressed to Benjamin Franco, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency,  
Region 4, Air Programs Branch, 345  
Courtland Street NE., Atlanta, Georgia  
30365.

Department of Environment, Health and  
Natural Resources, P.O. Box 29535,  
Raleigh, North Carolina 27626-0535.

**FOR FURTHER INFORMATION CONTACT:**

Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Benjamin Franco, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, EPA Region 4, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is 404/347-3555, extension 4211. Reference file NC79-1-9606.

**SUPPLEMENTARY INFORMATION:** Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable National Ambient Air Quality Standard (NAAQS) for at least ten years after the Administrator approves a redesignation to attainment. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems.

On October 7, 1994, the North Carolina Department of Environmental Management (NCDEM) submitted a redesignation request and maintenance plan for the Raleigh/Durham CO nonattainment area. On August 2, 1995, EPA published in the Federal Register a final rule making effective on September 18, 1995, a maintenance plan and redesignation of Raleigh/Durham to attainment for CO. The above approved maintenance required the use of a 2.0% oxygenated fuel program.

Subsequently, on October 18, 1995, NCDEM submitted a request to parallel process a proposed revision to the Raleigh/Durham CO maintenance plan. This revision requested the removal of the Oxygenated Fuel program from the maintenance plan. Due to a change in the methodology used to calculate this projection, NCDEM has revised their projected vehicle miles travelled (VMT) in Wake and Durham Counties. The conclusion that oxygenated fuel was necessary to maintain the CO standard was based on a VMT projection methodology that segregated the road types into rural and urban categories. This methodology resulted in an annual growth rate for urban road types of 5.5

to 6.5 percent in Wake and Durham Counties. A major concern with this methodology, not recognized at the time the original maintenance plan was developed, was the reassignment of rural roads to urban roads. During the six year window of VMT data, a significant amount of rural road mileage was reassigned by the North Carolina Department of Transportation to urban road mileage as the urban boundaries of Raleigh and Durham were expanded. The result from this analysis was an apparent higher urban VMT growth rate than was actually occurring.

A revised analysis has been performed using a projection methodology that projects VMT on a county total basis. The resulting annual VMT growth rate for both counties is approximately 3.5 percent. Due to lower projected highway mobile CO emissions, the CO standard can be maintained without the continued use of oxygenated gasoline in the Raleigh/Durham area. Therefore, EPA is allowing the removal of the Oxygenated Fuel program starting in the 95-96 winter season. The State has moved the program to the contingency plan. In addition, NCDEM made changes to the contingency plan requiring an analysis of necessary control measures prior to implementation of any pre-adopted control measures.

**Demonstration of Maintenance—  
Projected Inventories**

Total CO emissions were projected from 1991 out to 2005 for the Raleigh/Durham area. These projected inventories were prepared in accordance with EPA guidance. In this notice, EPA is proposing to approve the revised emission budget. This budget is based on the best available information, and shows attainment for 10 years.

**RALEIGH/DURHAM NONATTAINMENT AREA, CO EMISSIONS SUMMARY**

[Tons per day]

Year	Area	Nonroad	Mobile	Point	Total
1991 .....	57.12	5.22	569.82	1.00	633.16
1993 * .....	57.60	5.58	434.87	1.01	499.06
1996 .....	60.01	6.25	538.09	1.08	605.43
1999 .....	63.45	7.18	522.31	1.13	594.07
2002 .....	65.90	8.08	526.55	1.16	601.69
2005 .....	67.87	8.98	543.84	1.20	621.89

\* Oxygenated Fuel program in place (2.7% Oxygen by weight).

**Proposed Action**

In this document, EPA is proposing approval of revisions to the State of North Carolina's CO maintenance plan for the Raleigh/Durham area.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify

that the rule will not have a significant impact on a substantial number of small entities, and in fact is expected to decrease compliance costs and decrease costs to consumers in the affected areas. Small entities include small businesses,

small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

#### Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being proposed for approval by this action would impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 27, 1995.

Michael V. Payton,

*Acting Regional Administrator.*

[FR Doc. 95-27566 Filed 11-6-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[WA9-1-5540, WA28-1-6613, WA34-1-6937; FRL-5326-3]

#### Approval and Promulgation of State Implementation Plans; Washington

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes limited approval and limited disapproval of the State Implementation Plan (SIP) submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). The implementation plan was submitted by the State to satisfy certain Federal

requirements for a moderate nonattainment area PM<sub>10</sub> SIP for Yakima, Washington.

**DATES:** Comments must be postmarked on or before December 7, 1995.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, EPA, Office of Air (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information are available for inspection during normal business hours at the following locations: EPA, Office of Air, Docket #s WA9-1-5540 WA28-1-6613 and WA34-1-6937, 1200 Sixth Avenue (AT-082), Seattle, WA 98101, and the Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504.

**FOR FURTHER INFORMATION CONTACT:** Kelly Huynh, Office of Air (AT-082), EPA, Seattle, Washington 98101, (206) 553-1059.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Yakima, Washington area was designated nonattainment for PM<sub>10</sub> and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA) upon enactment of the Amendments of 1990 on November 15, 1990. This Yakima nonattainment designation was announced in a March 15, 1990 Federal Register notice (See 56 FR 11101). The air quality planning requirements for moderate PM<sub>10</sub> nonattainment areas are set out in subparts 1 and 4 of Title I of the CAA. EPA has issued a "General Preamble" describing EPA's views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the CAA, including those State submittals containing moderate PM<sub>10</sub> nonattainment area SIP requirements [See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this proposal and the supporting rationale. In this rulemaking action on the Yakima, Washington moderate PM<sub>10</sub> SIP, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Thus, EPA will consider any timely submitted comments before taking final action on this proposal.

Those States containing initial moderate PM<sub>10</sub> nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM<sub>10</sub> also apply to major stationary sources of PM<sub>10</sub> precursors except where the Administrator determines that such sources do not contribute significantly to PM<sub>10</sub> levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the CAA.

States with initial moderate PM<sub>10</sub> nonattainment areas were also required to submit a permit program for the construction and operation of new and modified major stationary sources of PM<sub>10</sub> by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM<sub>10</sub> NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13543-44.

##### II. This Action

Section 110(k) of the CAA sets out provisions governing EPA's review of SIP submittals (See 57 FR 13565-66). In this action, EPA is proposing to grant limited approval of the Yakima PM<sub>10</sub> nonattainment plan as submitted on March 24, 1989; May 1, 1992; August 19, 1992; February 3, 1994; March 1, 1995; March 10, 1995; June 27, 1995; and August 17, 1995. EPA may grant a limited approval of this nonattainment plan under section 110(k)(3) of the CAA, in light of EPA's authority under section 301(a) of the CAA to adopt regulations necessary to further air quality by strengthening the SIP. EPA is proposing a limited approval because the nonattainment plan serves the purpose of improving air quality within the Yakima area and is providing Reasonable Further Progress (RFP)